

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**ORDER**

Application 29573 Permit 20667

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE,  
ADDING ENDANGERED OR THREATENED SPECIES TERM,  
AND AMENDING THE PERMIT**

**WHEREAS:**

1. Permit 20667 was issued to Jericho Canyon Vineyard on June 10, 1993 pursuant to Application 29573.
2. A petition for an extension of time in which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board on July 15, 1998.
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
4. Fish and wildlife species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. A new development schedule is approved as follows:

Complete application of the water to the proposed use shall be made by December 31, 2007.

(0000009)

2. The addition of paragraph 24 to the permit to read as follows:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

Dated: **MAR 26 1999**

  
Harry M. Schueller, Chief  
Division of Water Rights

STATE OF CALIFORNIA  
WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20667

Application 29573 of Jericho Canyon Vineyard

3292 Old Toll Road, Calistoga, CA 94515

filed on September 20, 1989, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(1)(3) Two Unnamed Stream	Jericho Creek
(2) Jericho Creek	Garnett Creek thence
	Napa River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
Storage - Reservoir #1 (1) North 350,100 feet and East 1,830,700 feet *	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	13	9N	7W	MD
Diversion to Offstream Storage (2) North 348,100 feet and East 1,830,800 feet *	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	24	9N	7W	MD
Storage - Reservoir #3 (3) North 349,850 feet and East 1,830,900 feet *	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	13	9N	7W	MD
* all by California Coordinate System, Zone 2					

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acre
SEE ADDENDUM						

The place of use is shown on map on file with the State Water Resources Control Board.

## ADDENDUM

**Application** 29573Permit 20667[illegible]

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 28 acre-feet per annum to be collected from October 1 of each year to May 15 of the succeeding year as follows: 13 acre-feet per annum in Reservoir #1 , and 15 acre- feet per annum in Reservoir #3. (0000005)
6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)
7. The maximum rate of diversion to offstream storage shall not exceed 1.25 cubic feet per second. (000005J)
8. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
9. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)
10. Construction work shall be completed by December 31, 1996. (0000008)
11. Complete application of the water to the authorized use shall be made by December 31, 1997. (0000009)
12. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)
13. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
14. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.
- The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.
- The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

22. For the protection and enhancement of wildlife, permittee shall implement the following measures at Reservoir #3:

- a. Access shall be allowed for wildlife to the reservoir and shall not be restricted by means of fences, traps or other obstructions or hazards.
- b. Permittee shall plant an average of one tree of 10-gallon size, or larger, for every 10 feet of shoreline as measured at the high water line of the reservoir.
- c. Trees shall be planted within six months after construction of the reservoir. The trees shall be irrigated, or otherwise maintained, for a period of three years such that a survival rate of 80 percent, or greater, is achieved.
- d. Tree species shall consist of live oak, bay or other species native to the Garnett Creek watershed and acceptable to the California Department of Fish and Game.

(0400500)

23. The pipe size for the diversion to offstream storage at Point of Diversion #2 on Jericho Canyon shall not exceed 2 inches in diameter.

(0560800)

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

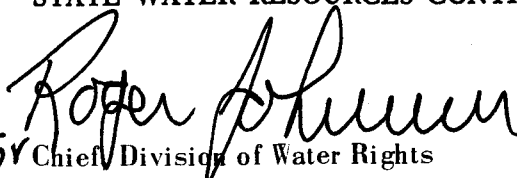
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: - JUNE 10 1993

STATE WATER RESOURCES CONTROL BOARD

  
Chief Division of Water Rights

15. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

16. Permittee shall install and maintain an outlet pipe of adequate capacity in each dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipes to the Chief of the Division of Water Rights for approval. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

17. Permittee shall either 1) install flow measurement devices satisfactory to the State Water Resources Control Board, or 2) perform pump capacity test(s) and maintain records of billing for kilowatt hours in order to measure the rate and quantity of water diverted into Reservoirs #1 and #3 from Point of Diversion #2, and water released from or flowing out of the Reservoirs #1 and #3. (0060046)  
(0090046)

18. For the purposes of determining the amount of water diverted and used for this permit, permittee shall install and maintain staff gages in Reservoirs #1 and #3, and other devices satisfactory to the State Water Resources Control Board, necessary to quantify the amount of water diverted and used. Permittee shall meter diversions to offstream storage and withdrawals from reservoir storage. Annual records of metered diversions and withdrawals shall be kept as follows:

- a. Date and staff gage readings for low water levels prior to filling reservoirs.
- b. Date and staff gage readings for maximum reservoir levels.
- c. Date and staff gage readings for reservoir levels upon completion of seasonal withdrawals.
- d. Dates and metered amounts for withdrawals from storage in each reservoir. (0070047)  
(0100047)

19. Diversion of water to storage between March 15 and May 15 under this permit shall be made only when there is surplus water available as determined by the Napa River Watermaster. (0000085)

20. This permit is specifically subject to the prior rights of Preferred Vineyard Properties, Inc. under appropriation issued pursuant to License 161 (Application 631), License 12052 (Application 25447), and License 12214 (Application 25448). (000T001)

21. No water shall be diverted from Point of Diversion #2 to offstream storage under this permit unless a visible continuous surface flow exists in Garnett Creek at the Highway 29 bridge. Before diverting water, permittee shall contact either John Ramos, George Edson Williams, or other designated representative of the downstream riparian diverters for the purpose of verifying the above condition. (0360800)